

Maryland Board of Pharmacy
Public Minutes
February 21, 2007

Officers Present: Mark Levi, President; Donald Taylor, Secretary; and Jeanne Furman, Treasurer

Commissioners Present: Cynthia Anderson, Margie Anne Bonnett, David Chason, Joseph DeMino, Harry Finke, Jr., Mayer Handelman, Alland Leandre, and Michael Souranis

Absent Commissioner: Rodney Taylor

Board Staff Present: LaVerne Naesea, Executive Director; Patricia Gaither, Administrative and Public Support Manager; Shirley Costley, Licensing Manager; Anna Jeffers, Legislation and Regulations Manager; Tamarra Banks, MIS Manager; Colin Eversley, Compliance Investigator; Vanessa Thomas-Gray, Compliance Secretary; Fannie Yorkman, Administrative Specialist; Michelle Xu, Database Specialist; University of Maryland School of Pharmacy Interns, Asadabimpe Adezeno and Barry VanDenheuvel; and Alicia Carter, Secretary

Board Counsel: Linda Bethman

Guests: Howard Schiff, Executive Director, MPhA; Mike Swarner, Target; Scott Vehovic, Walgreens; Chris Wilburn, Walgreens; Fred Evans, Drug Inspector, Division of Drug Control; Steve Riggan, CVS; Carthic Yaga, Pharmacist, CVS; Elizabeth Gerard, Pharmacy Tech, Wal-Mart; Tony Tommasello, Director, PEAC; Sue Uslin, Pharmacist, Wal-Mart

I. Introduction/Recusals – Members of the Board with a conflict of interest relating to any item on the agenda were asked to notify the Board at this time. There were no recusals.

II. Approval of Minutes January 17, 2007

Page 4 – 1st paragraph delete the word “traps” and change to “professional decisions”.
Page 4 – 2nd paragraph, 2nd sentence “Ms. Naesea stated Secretary McCann had Signed the Board’s and the DHMH Labs Administration’s joint request for approval for the Board to assume responsibility for “insert the word performing”

Page 4 – Under Section – Review of Draft Revised Retail Inspection Form, 9th sentence delete number 4 and change number 3 to “A *Sterile Compounding Inspection form that my be used as a addendum.*”

Page 7 – 1st paragraph, 6th sentence The proposal was sent to the Boards of Nursing and Physicians on November 22, 2006 for their approval” add “s” to approvals.

Page 8 – 1st paragraph, 2nd sentence The process should not take longer than 5 days change to “The process should not take longer than six weeks.”

Linda Bethman instructed Alicia to include an ending statement to these January 17, 2007 and all future minutes as follows: “An Administrative Session was immediately convened thereafter to discuss confidential disciplinary cases.” She indicated that this language must be included in response to recent changes to requirements related to minutes prepared by all Health Occupation Boards that hold non-public sessions.

Motion: Michael Souranis moved to accept the minutes. Jeanne Furman seconded the motion.

Board Action: The Board voted unanimously to approve the motion.

Ms. Naesea asked Board members to ratify the Board Actions taken at the January Board meeting because the announcement of the January Public Board Meeting was not posted in the Maryland Register in time to notify the public that votes would be taken during that Meeting.

Motion: Michael Souranis moved that the Board ratify the Board’s Actions taken during its January 2007 meeting. Alland Leandre seconded the motion.

Board Action: The Board voted unanimously to approve the motion.

III. President/Executive Committee Report – Mark Levi

Mr. Levi stated that upcoming Board vacancies would be published in the Board’s Newsletter. Vacancies have been posted on the Board’s website and the organizations that will be recruiting/accepting nominations have been notified. Summar Goodman, Public Information Officer, provided nomination forms and a description of the nomination process for public attendees to circulate among their colleagues. A press release providing notification to all licensed pharmacists and other parties was also provided. The Board also voted to mail information about the Board’s upcoming vacancies to all licensed Maryland pharmacists.

Motion: Jeanne Furman moved to mail information about the Board’s upcoming vacancies to all licensed Maryland pharmacists. Harry Finke, Jr. 2nd the Motion.

Board Action: The Board voted unanimously to approve the motion.

Mr. Levi and Ms. Naesea met with Georgette Zoltani, Director of the Division of Drug Control, and Mike Wadja, Deputy Director of the DHMH Labs Administration, to discuss the transition of routine pharmacy inspection responsibilities from the Division of Drug Control to the Board of Pharmacy. A timeline for planning meetings between the Board and the two DHMH units was established. Mr. Levi stated that he would provide regular updates about those meetings to the Board. It is expected that the Board will assume routine pharmacy inspection responsibilities in October 2007.

Mr. Levi, Mr. Taylor, Ms. Naesea and Ms. Jeffers also met with Senator Conway, Chair of the Senate Environmental Health and Education Committee. Senator Conway agreed to sponsor the Board's Job Classifications and Salary Setting Bill in the Senate. Mr. Levi stated that the meeting went well, and that the Executive Committee will probably schedule periodic meetings with Senator Conway in the future.

Mr. Levi requested the Board staff post an informational website link for the DEA's updated Practitioners' Manual on the Controlled Substances Act on the Board's website. He said the link may be obtained from the NABP February Newsletter.

IV. Executive Director's Report – LaVerne Naesea

Budget Hearings

Ms. Naesea reported that she attended the Senate and House Budget Hearings that were held on February 14th and February 16th respectively. Ms. Naesea explained that she managed the Board office alone until attending the afternoon Senate Hearing on February 14th because state employees were granted liberal leave due to the snow and ice storm. She stated that the Board's office building had an all day emergency closure on February 16th because of an electrical outage. She apologized for any inconvenience to Board members, and indicated that an interim emergency disaster plan to notify Board and staff members has been developed until a permanent plan can be put into place. Ms. Naesea also instructed staff members to directly contact Board members in the future if meetings must be canceled.

Ms. Naesea stated that both Budget Hearings went well. She indicated that the Board had requested that the Board's currently filled position for the contractual Licensing Secretary be made permanent, and that a new Health Occupation Investigator permanent position be approved. Ms. Naesea said that the Legislative Analyst's initial recommendation was for both requested positions to be disapproved. However, based on Ms. Naesea's written and verbal testimony, the Legislative Analyst rescinded her original recommendations at both Hearings. The Legislative Analyst further indicated that she would submit a revised set of recommendations to reflect her verbal presentations.

Introductions

Ms. Naesea introduced Michelle Xu, the Board's new Database Specialist, who began on February 14th, and Fannie Yorkman, Administrative Specialist, who began working in

the Licensing Unit with the Pharmacy Technicians program on February 19th. She also introduced Asadabimpe Adezeno and Barry VanDenheuvel, both Pharmacy Student Interns assigned to the Board, from the University of Maryland School of Pharmacy. Both students will be with the Board for a month.

V. Legislation and Regulation Manager Report – Anna Jeffers

A. Regulations Updates

1. Pharmacist Administration of Influenza Vaccination - The regulations were submitted into the regulatory process at DHMH.
2. Pharmacy Technicians - The Pharmacy Technician regulations will be submitted in the near future.
3. USP 797 – The USP 797 regulations were published January 19, 2007.
4. Wholesale Distributors - The Wholesale Distributors regulations are in draft form and are currently under review.

B. Legislation

Hearings Between February 15 – 22, 2007

Ms. Jeffers reported that she had included in the Board packet the position papers and/or letters prepared for scheduled hearings before February 15th. Ms. Jeffers stated that she provided copies of the Letter of Information for HB 100, Health Occupations – Cultural Competency Workgroup and the Letter of Concern for HB 670, Prescription Drugs – Canadian Mail Order Plan. The Senate Bill 266, Prescription Privacy Act, hearing was scheduled for Thursday, February 22nd, but has been rescheduled for next week. Ms. Jeffers stated that she felt that the Board should support that Bill with amendments. The Bill, as written now, conflicts with the Maryland Pharmacy Act. The Bill would prohibit transfers except in certain situations. The amendments she was going to suggest would bring the Act into compliance with the current Maryland Pharmacy Act. (i.e. which allows the transfer of prescriptions between pharmacies authorized by the Health Occupations Article or otherwise authorized by Federal and State law).

The following bills were also discussed:

1. **SB 349/HB 769 Disease Prevention – Sexually Transmitted Diseases – Expedited Partner Therapy Pilot Program** - The Baltimore City Health Commissioner is proposing this Bill to permit a patient to obtain a prescription for themselves and their partner(s) if the patient is diagnosed with a sexually transmitted disease. Mrs. Jeffers recommended a Letter of Education.

The Board voted unanimously to approve a Letter of Education.

2. **SB 677/HB 734 Pharmacy Benefit Managers Regulation Act** - Ms. Jeffers still needs to carefully reread this Bill to identify any differences from last year's PBM Bill.
3. **HB 736 State Board of Pharmacy – Job Classifications and Grades for Staff** - This Bill would specifically allow the Board of Pharmacy to determine, in consultation with the Secretary of DHMH, the job classifications and salaries for Board positions' salaries. Ms. Jeffers plans to meet with Delegate Elliott to provide additional background information on this Bill. She recommended a **Letter of Support**. The Board voted unanimously to approve a Letter of Support.
4. **HB 820 Health Occupation Boards – Determination of Job Classifications and Grades for Staff** – This Bill is similar in concept to HB 736, however it would apply to all Health Occupation Boards and Commissions (except the Board of Physicians), and would exclude the Secretary of DHMH from any involvement in determining the appropriate classifications for positions on the Health Occupation Boards. Mrs. Jeffers recommended a **Letter of Concern**. The Board voted unanimously to approve a Letter of Concern.
5. **HB 1030/SB 759 State Board of Pharmacy – Wholesale Drug Distribution - Permit Requirements** – This Bill would strengthen present wholesale distributor requirements in Maryland by requiring surety bonding, routine inspections, pedigrees, and criminal background checks. Mrs. Jeffers recommended a position of **Support with Amendments**. The Board voted unanimously to approve Support with Amendments.
6. **HB 949 Military Healthcare Personnel Staffing Initiative** – This Bill would set up a workgroup that would look at potential barriers for returning military personnel being licensed as healthcare providers in Maryland. The Bill would require participating Board staff spend time from their normal Board of Pharmacy duties to participate in this workgroup.

Motion: Jeanne Furman moved that the Board take no position on the HB 949 Military Healthcare Personnel Staffing Initiative Bill. Donald Taylor seconded the motion.

Board Action: The voted unanimously to approve the motion.

7. **HB 1169 Health Program to Diabetes to Maryland P3 Program** – This Bill would establish a Maryland P3 Program in the University of Maryland. Basically, this Bill would provide funding for this Program. The purpose of the Program is to utilize pharmacists as primary providers to assist individuals with chronic conditions with the proper use of medications, diagnostic testing,

counseling and disease-state management self manage their chronic conditions. Mrs. Jeffers recommended a **Letter of Support**. The Board voted unanimously to approve a **Letter of Support**.

Update on Drug Therapy Management Extension Legislation

Ms. Jeffers informed the Board that she had sought departmental sponsorship to extend the Sunset provision for this Program. However, it was not included in the 2007 departmental legislative package. She stated that appropriate legislation would be proposed during the 2008 legislative session. Ms. Jeffers added that next year the Board could also seek private sponsorship for the Bill. Ms. Jeffers will obtain a report from the University of Maryland to present at the next Board meeting.

Nursing Dispensing Formulary – Mark Levi

Mr. Levi explained that former Board member Donald Yee had staffed this Committee for the Board, and asked the Board members for a volunteer to replace Mr. Yee. He explained that the Committee usually meets once or twice during the year to decide if new drugs should be added to the Nursing Dispensing Formulary. In responding to the Committee's requests, the Board representative would consult with the Board, time permitting, or make an independent decision in consultation with the other pharmacist assigned to the Committee if time was an issue. Board member, Harry Finke, Jr., will staff the Nursing Dispensing Formulary Committee.

Division of Drug Control – LaVerne Naesea

Ms. Naesea provided the DDC Inspection Report statistics for February 2007: 73 pharmacy inspections, 14 opening inspections, 4 closing inspections, 0 Board/DEA/DDC special investigations.

VI. Administration and Public Support – Patricia Gaither

A. Personnel Update

Ms. Gaither reported that Ms. Bonnie Rosiak has been offered and has accepted, the Compliance Officer position with an anticipated start date of February 28th. The recruitment for the Special Programs Coordinator is closed. Applications have been received at DHMH for the new position in the Compliance Unit that entails working with impaired pharmacists under Board orders. The Legislative Officer position specifications have been forwarded for recruitment at DHMH. No date has been received as to when the recruitment for the Legislative Officer position will begin. Ms. Gaither announced that the Board had received a memo informing all DHMH units that the Governor had issued a State "Hiring Freeze" effective February 20th. The Board will be submitting freeze exemption requests for the positions it is trying to fill.

B. Public Information Officer Report – Summar Goodman

Promotion for Prescription Drug Repository

Ms. Goodman informed the Board that she had received a call from Delegate Rudolph inquiring about possible means for promoting the Prescription Drug Repository Program. Dr. Arnold Amass from the American Cancer Society informed Ms. Goodman that his organization has tentative plans to promote the Program. Board members directed Ms. Goodman to send out notifications to all permit holders to notify them that the Program is now operational. The letter is expected to be mailed within the coming week .

Ms. Goodman will also be mailing notifications of the upcoming Board vacancies to all Maryland pharmacists by the end of the week, *February 23, 2007*.

Letter of Support to Bio-terrorism Hospital Preparedness Program (CEPAR)

Ms. Goodman and Dave Chason are assigned to represent the Board on the CEPAR Committee. CEPAR is the principal emergency hospital preparedness response program. At the CEPAR Committee meetings, hospital preparedness surveys and planned hospital emergency preparedness activities are discussed. CEPAR is applying for a continuation grant, and has requested a letter of continued support from the Board. Ms. Naesea prepared a letter of continued support after consulting with the Executive Committee.

VII. Management Information Services – Tamarra Banks

Statistics

Ms. Banks reported the February statistics: 7,842 active pharmacists, of which 5,393 practice in Maryland and 2,448 out of State, 1,573 total pharmacies, of which 1,224 are located in Maryland and 349 are non-resident pharmacies; 770 distributors, 176 located in Maryland and 594 non-resident.

In-House Database Implementation

As reported in January, work began on revising the Disciplinary database systems. Colin Eversley and Ms. Banks reviewed the input screens for the Compliance sections and requested more drop-down boxes to keep the systems' information uniform. Ms. Banks will meet with Towson University this afternoon to discuss the next set of projects.

Personnel

The Database Specialist, Michelle Xu, started work at the Board February 7, 2007. She has started working on the HIPDB, DDC, and Online databases and is reviewing the new Board database being created by Towson.

Emergency Preparedness

Work will begin this Spring on securing disaster recovery locations.

Web Site

Number of emails for January: 336

- a. A new Board Home page has been posted with a opening message from LaVerne Naesea.
- b. The requirement from Medicaid to obtain a National Provider Identifier (NPI) by May 23, 2007 is documented.

Hardware/Software

- a. New Staff PC's – The Licensing Unit has had their new PC's installed.
- b. Laptops – Laptops still need to be returned by former Board members who left the Board in 2006.
- c. The Compliance Unit and Alicia Carter have begun entering information in the HIPDB database.

Other News/Events

DHMH has asked its Units not to install Microsoft's new operating system, Vista, because it needs a 1 GHz processor, 1GB memory and at least 15 GB free space for the program to run. Also, some companies, like Symantec and Novell, don't have patches to make the new program compatible.

PEAC (Pharmacist Education and Assistance Committee) – Tony Tommasello

Mr. Tommasello distributed a copy of PEAC's annual report for January 1, 2006 through December 21, 2006. He informed the Board that PEAC presently has 12 non-Board referred pharmacists that they are following. He has requested to meet with Mr. Levi, Ms. Naesea and Linda Bethman, Board Counsel, concerning PEAC's contract, so that the new contract can be finalized. Mr. Tommasello informed the Board that PEAC's CE program is scheduled for October 18, 2007. The program will address the "Bottom Line of Addictions." Various subject matters will be discussed in the Program. The Program

will be a five hour CE Program. There was “A Message from PEAC” published in the Maryland Pharmacists Association’s (MPhA) most recent newsletter. Mr. Schiff, Executive Director for MPhA, agreed to allow the Board an opportunity to respond to that message.

VIII. Committee Reports

A. Practice Committee – Dave Chason

1. Constituent Questions and Responses

- a. Tom Lesko, Pharmacy Manager, Contract Pharmacy Services, Inc.

What is the Board’s position on having mail ordered medications sent directly to the pharmacy and then repackaged into our Bingo/Blister system for the residents?

Mr. Chason reported that the Practice Committee would need to work with the Long Term Care Task Force in order to develop a response to that inquiry.

- b. William McCawley, Practitioner Liaison @ The Village Green Apothecary

An authorized prescriber would like to increase patient compliance by including the cost of the compounds in the total price of his services. Important Information about this plan:

- They are currently not processing these compounds through insurance because they are all under 40 dollars.
- The prescriber is currently writing a prescription for each patient.
- The prescriber dispenses directly to the patient (most often through mail).
- They bill each patient.
- Each compound is made per the prescription.

Motion: Mike Souranis moved to accept the Practice Committee’s letter as written. Jeanne Furman seconded the motion.

Board Action: The Board voted unanimously to approve the letter to William McCawley.

- c. Scott Fenwick, UMMS

1. Meds that were prescribed by the doctor and will be going home with the patient, is it OK if the nurse conducting the discharge process gives those meds to the patient?
2. At the time of discharge, the patient’s status changes from inpatient

to outpatient. Does this require a change in the labeling?

Motion: Dave Chason moved for acceptance of the letter as written as written by the Practice Committee. Jeanne Furman asked that the letter be amended stating that medications must be labeled as required under HO 12.505. Cindy Anderson seconded the motion.

Board Action: The Board voted unanimously to approve the motion.

2. Long Term Care Task Force – Mayer Handelman

Mr. Handelman reported that the LTC Task Force discussed a Long Term Care Inspection Form. NABP was contacted. NABP faxed a letter through out the Country requesting replies from states who have a Long Term Care Inspection form? Results were received from Alabama, New Hampshire, North Carolina, Kentucky, and North Dakota. The first four states used strictly a Retail Inspection form. North Dakota has a Retail plus Long Term Care form. Mr. Handelman gave a description of that form. He stated that the form is complete, according to North Dakota's law. It was suggested that the form be brought before the Licensing Committee and that the format stay the same as our present form for consistency. It was also suggested that the Task Force might look at California's format. The Task Force will work on the content of the Inspection Form.

A draft letter to Cinda Martin concerning discharges from Long Term Care facilities was presented to the Board. The letter states that a physician may not delegate the act of dispensing to a nurse in a Long Term Care Facility. If a resident is being discharged or going home for a visit from a facility, the medications may be labeled and dispensed by the pharmacy. If the physician has ordered a patient to be discharged with medications, the medications should be labeled correctly, and an acknowledgment signed from the patient acknowledging that the medications may not be in a childproof container.

Mr. Handelman also reported on a Task Force discussion about what could be accepted by Health Care Quality and pharmacists for electronic signatures. The least that the Health Care Quality would accept would be if a physician comes into a facility and if the facility is paperless, the physician would enter his/her password into the system. The password would record the date, the time and the physician' information. Another key stroke could then automatically appear on the electronic system stating, "I hereby accept these Orders."

In addition, the Task Force discussed repackaging. The Task Force and Health Care Quality will rewrite the Long Term Care Regulations on repackaging. Copies of "Dangerous Doses" were given to the Long Term Care Task Force.

C. Licensing Committee – Michael N. Souranis

January Statistics

Mr. Souranis reported on the February statistics. The number of pharmacists due to renew this month were 311 compared to 330 last month; the total renewed to date were 285 (201 renewed online) compared to 300 last month (144 online);the non-renewed total was 26 compared to 30 last month.

Under new establishments there were 11 new;
Distributor – in-State –(0) – out-of-State – (9);
Pharmacy - New: 8;
Resident Pharmacy – 0;
w/Waiver – 1;

Resident
Non-
Pharmacy

Renewals – Distributor – 119 compared to last month 76;
Pharmacy – 78 compared to last Month 41;

Closed; Distributor – In-State – remain the same as last month – 5;
Nothing to report for Distributor – Out-of-State;
Pharmacy 3 compared to last month 2;
Non-Resident Pharmacy 0;
Pharmacy w/Waiver 1

Online Comments

Mr. Sournais read comments that were made about the Online renewal system.

Finally, how can a person renew their Influenza Certification? The pharmacist should contact Keisha Wise, once their license has been renewed, and Laurie Cohen in the Licensing Unit will process the certificate.

The Board adjourned the Public Meeting at 11:25 am, and immediately thereafter convened an Administrative Meeting for the purpose of discussing confidential disciplinary cases. With the exception of cases requiring recusals, the Board members present at the Public Meeting continued to participate in the Administrative Session.